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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

Written statement*/ submitted by the Asian Legal Resource Centre,
a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 December 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *200 10 0743*

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they do not obey their orders and do so. Police very rarely testify in court, and never stand trial accused of torturing or forcing confessions. That most criminal cases are based on confessions indicates that Cambodia is still employing a socialist evidentiary style. These violations breach article 7 of the ICCPR. The following cases illustrate:

a. On May 27, 1998, Ngan Kim Srun was charged drug usage, counterfeiting, murder, robbery and kidnapping of two children near the central market in Phnom Penh. The accused was one of ten persons charged in the kidnapping case, of which six persons are being prosecuted. The robbery and murder charges were dropped. Ngan Kum Srun was arrested by a soldier and blindfolded. According to his statement when brought to the police station he was beaten and forced to confess. However, witnesses did not identify him among the kidnappers, and the kidnapped children were not available to give testimony. The defence lawyer argued that the confessions were forced, but the investigating judge maintained that the accused had confessed to both the police and prosecutor, stating that there was no risk of being beaten by the prosecutor and therefore that confession could not be regarded as forced. The investigating judge decided to forward the case to court. The trial date is set for June 6, 2001 (Cambodia Defenders Project, Case No. 424 / 27-05-98).

b. On November 1, 1999, Kim Van Dy was one of three persons accused of robbery. The two other accused confessed and stated that Kim Van Dy also participated. When the case came before Phnom Penh Court, the two withdrew their statements and said that they had only confessed to Kim Van Dy being part of the crime because the police had beaten them and forced them to do so. The defence lawyer raised the question of forced confession, but the judge did not consider this argument and said that the police knew the three for their previous crimes, however he did not make any specific reference to a crime the accused had allegedly been involved in. No other witnesses were heard. The judge sentenced the accused to three years imprisonment. (Cambodia Defenders Project, Case No. 18/ 03-01-00).

6. Cambodian police also violate the right to liberty and security, including freedom from arbitrary arrest and detention, as dealt with by article 9 of the ICCPR. For example, in February 2000 a married couple travelling by motorbike in Siem Reap Province were arrested by a military lieutenant for no apparent reason. The husband was threatened with death if he resisted. Both suffered head inquiries from beatings. The wife was pregnant at the time of the incident, and the case went to court, as the couple wanted compensation for the wife having to spend all her time at the hospital till she gave birth. In November 2000, the judge issued an arrest warrant for the lieutenant, which was sent to the police commissary and headquarters of the provincial military police. By the beginning of December 2000, however, the perpetrator was still not arrested (LICADHO).

7. In Cambodia, illegal arrest and detention, torture and forced confessions in police custody are common. This situation may have been caused by many factors, such as the heritage of the communist era; the long term use of the Cambodian police as a tool for political power struggles; the militaristic role imposed on policing by past regimes; and the many police officers without training, if any education at all.

8. No doubt there is a major need for reform of policing in Cambodia. International organisations and donors must push the government to conduct reforms towards creation of a democratic civil police force committed to upholding the national constitution. However, reforms cannot be successful without the commitment and participation of all the key stakeholders, including the government and police organisations. Furthermore, police reform should be linked with reform of the judiciary and rule of law in Cambodian society.

9. In the short term, the Commission must urge the Government of Cambodia to make an effort to stop human rights violations committed by police and military authorities and to ensure that those violating constitutional provisions be bought to justice. The government should put high priority on creation of an independent organ with a mandate to handle complaints against the police, empowered to make inquiries into specific cases, as well as general areas of concern. It should have the capacity to obtain all documentation on cases that it is investigating and hold powers to subpoena and refer cases to the judiciary. An independent organ handling public complaints would facilitate reduction of the prevailing climate of impunity in Cambodia.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

Written statement*/ submitted by the Asian Legal Resource Centre,
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The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Harassment of sex workers in Hong Kong SAR

1. In Hong Kong Special Administrative Region (SAR) of the People's Republic of China, sex work is not technically illegal and existing laws claim to stop exploitation and control of sex workers by third parties. However in practice the legal system usually moves against sex workers. When laws are enforced, sex workers typically find themselves pushed into poorer working conditions and often harassed by the police.

2. Between December 1999 and November 2000, Ziteng, a concern group for sex workers in Hong Kong, received more than 160 complaints of police harassment of sex workers. These complaints reveal a variety of harassment. For those who work in so-called "one-girl apartments", police officers often enter their workplaces, claiming that they are checking their licenses (sex workers in one-girl apartments have no licenses). Sometimes police officers have searched the apartments of sex workers without warrants three times in a day. Police officers also stand in the lobbies of buildings where sex workers operate and drive away their customers. Moreover, police officers ask sex workers to move out before a certain deadline. The police threaten to inform the workers' families about their work if they do not leave. In one case, a sex worker told by the police to move out of her apartment before a deadline requested more time, whereupon a police officer beat and threatened her. She called for help, went to a hospital to have her injuries examined and made a formal complaint to the Complaints Against Police Office, which has long been criticised for lacking credibility because it is not independent. In this instance, the case was dropped due to a lack of witnesses. What the police do legally or illegally is aimed at stopping sex workers' business. Sometimes police officers also ask for sex services without pay.

3. Another serious violation of sex workers' rights is that they are denied fair treatment before the law. The prejudice of judges and legal personnel often leads to discrimination against sex workers in court, no matter whether they are defendants or complainants. In one case, a judge bluntly stated that he did not believe the statement of a defendant who was a sex worker. In another, a customer who assaulted a girl working in a Karaoke bar was found not guilty as in his decision the judge stated that girls working in such places cannot be sexually abused as they are not persons faithful to their virginity.

4. The Asian Legal Resource Centre calls upon the Commission to encourage the HKSAR Government to stop harassment of sex workers by the police and to establish an independent complaint mechanism to investigate and prevent abuses of police power.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

Written statement*/ submitted by the Asian Legal Resource Centre,
a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Sri Lanka: the Bindunuwewa Massacre

1. On October 25, 2000, twenty-six persons (twenty-nine by some estimates), were chopped to death, while about fourteen others were seriously injured, in a rehabilitation detention centre at Bindunuwewa, Badulla, Sri Lanka. According to the National Human Rights Commission, which inquired into the incident, "the police officers, approximately 60 in number, were present at the place of massacre at the time of the massacre" and they "were fully armed". At least two of the detainees were shot by the police while trying to escape their attackers. Clearly these officers were participants in the massacre and have committed an even graver crime than the actual perpetrators. The armed police presence encouraged and enabled the attackers to engage in the massacre; they were assured that their crimes would have no legal consequences.

2. Initial stories told of a mob attack, however the timing of the event, in early morning, debunks the idea of a mob. Reliable inquiries have since revealed that the attackers were brought to the place by vehicle. In recent decades, there have been many attacks carried out by persons brought to the crime scene by others. The cruelty consistently demonstrated in these cases – hacking people to death, burning people alive, burning buildings – reveals that the attackers have not been amateurs, but persons with previous experience or "professional" training. At Bindunuwewa, they briskly did their job and soon disappeared. What grounds for personal anger or fury have been suggested to explain why someone would engage in such brutal crimes? The implausible proposition that members of a farming community living in the area carried out this massacre contradicts all that is known about the behavior of Sri Lanka's poor rural folk. This atrocity was committed by men with muscle, the will to kill and the know-how to go into hiding fast.

3. Sri Lankan law clearly states that accessories to murder are equally guilty of murder. What took place during this incident is much more than that. The sixty officers present were part of the arrangements for the carrying out of this massacre. Attempts to treat these police officers as less responsible parties go against the law. Additionally, efforts to diminish their legal responsibility will only result in further degeneration of the police force itself. Among the sixty police present, however, there must have been some with different ranks and some with a duty over others. These higher officers bear greater responsibility than their subordinates for the crimes that happened on this occasion.

4. Senior officers must also be held responsible for the actions of those present during the crime. The indications of these higher officers' culpability are:

    a. These sixty police could not have been present at this particular place and time but for their being assigned there. The documents in which their assignments are recorded will reveal who authorised their movement. On that basis, it should be possible identify and question the superior officers.

b. Immediately after the incident, there were many official versions of what happened that are now known to have been fabrications designed to misdirect inquiries. When senior police officers – normally those who conduct investigations – undertook to fabricate stories and misdirect criminal investigations they must have known the seriousness of their actions. Thus the senior police officers who made false press statements must be considered among the persons responsible for this crime.

c. Two to three hundred innocent villagers were detained in an effort to put the blame for this crime on the local people and cover up the real perpetrators. That senior police officers went this far suggests the extent of their involvement, how vast their fabrications. The pre-crime conspiracy was supplemented by subsequent falsehoods. These innocent persons were released only after sit-down protests by other villagers at the front of the police station.

d. Posters inciting violence were exhibited locally prior to this incident. How could they have been displayed without the knowledge of high law enforcement agents in the area? On previous occasions, for example during 1988-89, law enforcement agencies themselves forged posters and other materials under the name of the insurgents, to mislead the public about attacks they themselves carried out. Even if they were exhibited without their prior knowledge, tacit or express approval, why did they not have these posters removed? With prior knowledge of these incitements why did they not take action to provide greater security to the detainees or move them to a safer place?

5. Unfortunately, even the National Human Rights Commission has deemed the police officers' actions in this case as nothing more than a "serious dereliction of duty", effectively exonerating them from criminal responsibility and transforming the whole affair into a mere internal disciplinary inquiry. The criminals have been miraculously reduced to a group of fictitious "outsiders". The totality of this event and others like it as an act of mass murder has been undermined and the legal stage set for a few unimportant persons to take the fall in some low-key murder trials, at best. Meanwhile, the victims' families have already been promised compensation, not as an act of compassion by the authorities, but as a pay-off to silence their outrage and confuse the sheer criminality of the massacre by giving it the veneer of a civil case. Thus, this heinous crime is swept under the carpet.

6. Reports on the investigation into this incident indicate that the burden of proof has now perversely been cast onto the survivors. Having narrowly escaped death, the victims have found themselves required to identify the culprits and prove their allegations, in spite of the state being legally responsible for the investigation and prosecution. With sixty police officers present during the crime there need be no lack of evidence. These sixty eye-witnesses are those who must be interviewed; their log books and other notes that they are required by law to keep are those that must be examined. According to reports, about thirty of the officers were detained immediately after the incident. They must have been interrogated and their statements

too must be available. If there were ever a case with overwhelming evidence, this is the case. Suffice it to say that the Sri Lankan government has in its possession all the information necessary to act.

7. This incident is not only morally outrageous but of extremely serious nature both under Sri Lankan criminal law and international law.

   a. Under Sri Lankan law, the perpetrators of these killings must be charged with murder. The attorney general's department is legally responsible for the prosecution of crimes in Sri Lanka. As prosecutor, the department is obliged to act objectively and without fear or favour. If these prosecutions do not proceed or if the cases are not dealt with in a satisfactory manner, legal responsibility for the breach will fall primarily on this department.

   b. Under international law, these killings are a crime against humanity. They clearly fall within the definition of a crime against humanity of murder given by the Preparatory Commission for the International Criminal Court [PCNICC/2000/1/Add.2, article 7 (1) (a)]. Ultimately, the whole episode must be viewed from this standpoint.

   c. Irrespective, states are obliged to protect prisoners in their custody. The Government of Sri Lanka has failed in this duty. As a state party to both the International Covenant on Civil and Political Rights (ICCPR) and the Second Optional Protocol, the Commission is mandated to seek an explanation from the government for its failure to fulfill this positive obligation, and make appropriate recommendations in accordance with the ICCPR and international norms.

Religious Intolerance in Asia

1. Freedom of religion is guaranteed by article 18 of the Universal Declaration of Human Rights. Notwithstanding, the Asian Legal Resource Centre concurs with the Special Rapporteur that "the situation with regard to intolerance and discrimination based on religion or belief is alarming" (A/55/280, paragraph 133). In the last year, Asia has witnessed a marked increase in the level of religious intolerance and overt forms of disrespect and aggression.

2. Violations of the right to religion and belief are closely associated with violations of the economic, social and cultural rights of minorities and marginalised communities. Unequal distribution of wealth, unequal access to limited resources, loss of identity, loss of authority among the traditional leadership of many minority groups and other trends linked to globalisation have all exacerbated intolerance and contributed to the growth of extremism.

3. Religious extremism in some parts of Asia is creating a climate of suspicion, hatred, fear and violence. However, states have failed to take remedial action by controlling extremists' operations and prosecuting criminal activities, in spite of calls that "states and the international community must condemn [religious extremism] unequivocally and combat it relentlessly in order to preserve the human right to peace" (A/55/280, paragraph 136).

4. In South Asia, India is experiencing the most frightening growth in religious extremism. A case in point is the destruction of three dozen churches in the Dangs by Hindutva Parivar since 1998. Instead of dispelling the fears of religious minorities in the Dangs, the Prime Minister visited the area and called for a national debate on conversions, thereby deepening suspicion that religious extremists are being supported by the state. Questions over the role that the Government of India is playing in restricting conversions have already been brought to the attention of this Commission (A/55/280, paragraphs 28 and 29). The government's claim that in the state of Orissa the "Freedom of Religion Amendment Rules, 1999, does not require a citizen wishing to convert to seek permission of the local police and the district magistrate... only an intimation is required by way of prior information to the district magistrate", is most troublesome. It not only raises a fundamental question regarding freedom of religious choice, but is also a clear case of state intervention in limiting that freedom by imposition of conditions. Irrespective of justifications, "It cannot be the State's role to supervise, favour, impose or censure a religion or belief; nor can any religion or spiritual community supervise people's personal conscience" (paragraph 139).

5. A closer examination of so-called religious tensions and conflicts reveals a remarkably common pattern: hidden behind veils of complexities and ambiguities, invariably there emerges the indelible hand of agents or parties with vested interests in provoking conflict. These range from efforts to destabilize the existing political power structure, to seeking

economic advantage or simply finding scapegoats for economic and social ills. In Indonesia, for example, the prevailing tension in Ambon and the Moluccas cannot be comprehended without reference to the Suharto regime's Transmigration Policy, which exacerbated the struggle for limited resources on the islands; disputes over the failing economy were transformed into blame laying between religious parties. The violence that has engulfed the Moluccas over the last year continues unabated to this day. Thousands of lives have been lost, let alone the damage to property. Motivated by political or ethnic interests, religious feelings there have been fanned to create conflict between parties. The state has failed lamentably to arrest the mounting violence and hatred on either side of the religious divide. Accusations of law enforcement authorities' complicity have not been investigated. Religious tensions such as these are frequently orchestrated by governments or outside agents in order to divert the attention of the poor and marginalised from their economic miseries.

6. Another grave concern is the deliberate patronage of dominant religion by political leadership. The governments of Burma and Pakistan, for example, have incorporated religious symbolism and patronage into their agendas. Religion then serves to justify power, particularly when they lack the mandate to rule or their influence is on the wane. In such circumstances, bestowal of privileges on dignitaries of the majority religion; large donations to institutions and religious groups that are towing the government line; and lavish spending on religious places, buildings and rites all serve to reinforce authoritarian control. The autonomy of religious personnel and places is undermined. Dominated by political circumstance, religious teachings and practices are twisted and reinterpreted to support the vested interests of those in positions of status. The majority religion is made a tool to buttress rulers' control, rather than made to promote justice, peace and understanding. Suppression of minority groups' religious beliefs is tacitly permitted or directly supported by the authorities, as clamor from the majority, often provoked by extremist groups, is either acceded to or tolerated to gain political mileage. The most tragic outcome of this perverse political charade is that it fuels, rather than appeases, the further development of belligerent attitudes and actions among extremist factions, such as in the formation of Laksa Jihad in Indonesia.

7. Existing religious beliefs or tenets are also misused to justify systematic denials of basic rights to a part of society. In South Asia, particularly India and Nepal, the caste system continues to deny fundamental rights to a large section of the population, in conflict with true religious goals of justice and equality. Discrimination against Dalits and other so-called "outcastes" has generated a sense of apathy and personal worthlessness among parts of the society. These states have not taken effective action either to change the prevailing mindset or to implement existing anti-discrimination legal provisions. Despite repeated requests that Dalit Christian converts be given status and rights equal to that granted by the Indian government to scheduled castes and tribes, no action has yet been taken to this end.

8. In Pakistan also there is evidence of discrimination against religious minorities. Those worst affected are the Ahmadis, low caste Hindus and Christians. During November 2000, five Ahmadis, including two 15 year-old boys, were reportedly hacked to death in Takht Hazara by a mob led by a local cleric. Two of the bodies were thrown to the ground from the roof of their mosque. Meanwhile, the state has completely failed to prevent the arrest of innocent

victims under the blasphemy law introduced in 1985. The present political leadership, lacking a mandate from the people, is obviously reluctant to take any decisive measures that would hurt the feelings of the majority and is simply allowing the rights of minorities to be eroded. In the political system, religious preference is used as the basis for the present

'separate electorate system', whereby Christians are compelled to vote for four special Christian representatives. Every request to overturn this law and allow minorities to vote for national candidates has been rejected, further aggravating minority feelings that they are treated as second-class citizens and are discriminated against on the basis of religion.

9. The Commission must take religious intolerance, particularly in South Asia, as a matter of grave concern and urgency. Literally millions of people suffer the terrible burden of religious discrimination. The levels of violence both within and between communities with different beliefs are intense. A truly explosive situation exists that calls for the Commission's consideration. These matters should also be addressed at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance later this year, with a view to developing both short and long term plans towards their resolution.

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INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN

Written statement*/ submitted by the Asian Legal Resource Centre,
a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Lack of legal and institutional remedies for violence against women in Asia

1. The Declaration on the Elimination of Violence against Women (1993) recognised violence against women as constituting "a violation of the rights and fundamental freedoms of women [that] impairs and nullifies their enjoyment of those rights and freedoms..." The Beijing Platform for Action (1995) exhorted governments to

   a. "Enact and/or reinforce penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs done to women and girls who are subjected to any form of violence, whether in the home, the workplace, the community or society"; and,

   b. "Adopt and/or implement and periodically review and analyse legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders; take measures to ensure the protection of women subjected to violence, access to just and effective remedies, including compensation and indemnification and healing of victims, and rehabilitation of perpetrators."

2. However subsequent reports monitoring progress to stop violence against women in Asian countries reveal a dismal failure, especially on the part of governments and state institutions, to come to grips with the deeply embedded, systemic nature of violence against women in Asian societies. The United Nations Population Fund's *State of the World Population 2000* report, for instance, observes that

   a. Each year the world's women have 80 million unwanted pregnancies, undergo 20 million unsafe abortions, suffer millions of beatings and rapes, are often killed at birth because of their gender and are sometimes murdered in so-called "honour killings".
   b. Violence against women in Bangladesh is the worst in the world, with 47% of all women violently assaulted by their male partners. In India, 40% of women suffer violence.

   c. In developing countries, medical professionals attend only 53% of births, while almost 30% -- some 38 million each year -- receive no medical care after giving birth. Complications from pregnancy kill one in every 48 pregnant women in the developing world. Unsafe abortions cause the deaths of 78,000 women annually and suffering for millions more.

   d. At least 60 million girls are "missing", mostly in Asia, as a result of infanticide or sex-selective abortions, while an additional 5,000 are murdered each year, most in the Middle East, by their own families in "honour" killings. Some victims of honour killings are murdered for having been raped.

3. In Asia, one of the greatest obstacles to the elimination of violence against women is not only inadequate national legislation, but that state institutions – including the judiciary and police – lack the knowledge and will to affect the changes in attitudes, laws and procedures necessary to prevent gender violence and provide remedies where necessary. The lack of will to effect reforms in the interest of women's rights lies with the deep-rooted gender bias in both personal attitudes of state officials as well as in the structures and procedures of state institutions, reinforced by many traditional, religious and cultural norms and practices.

4. The recent report of the United Nations Development Fund for Women (UNIFEM), *With An End in Sight: Strategies from the UNIFEM Trust Fund to Eliminate Violence against Women*, discusses the need for reform and sensitization of legal institutions in Asia. It notes that violence against women is sanctioned when allowed to go unpunished, and continues, "But punishment, to be effective, requires several elements, including legal sanction, judicial and law enforcement action, and community approbation. In some cases, the laws that make violence a crime also serve to perpetuate it. In many countries, for example, the law still allows rape charges to be dropped if the perpetrator marries his victim." Take this example from India, where a woman's fate was decided for her by rape and social pressure:

> The court of the additional judicial commissioner of Ranchi ordered Mustafa Ansari of Pipra Toll in Ranchi district to marry the girl he had raped, Roshan Khatoon, of the same village. Finding the girl alone at home Mustafa raped her at 8 pm on May 3, 1999. The next day an FIR was lodged against him and Mustafa was subsequently arrested and lodged at the Birsa Munda Central Jail on June 4, 1999. While in jail Mustafa expressed his desire to marry Roshan. Apparently he had fallen in love with Roshan and distressed by her rejection he had avenged himself by raping her when she was alone. Mustafa's proposal was conveyed to the court of additional judicial commissioner Justice PK Sinha. The judge granted his request, the girl 's family was contacted and Roshan agreed to marry Mustafa. (The Indian Telegraph, September 1, 2000)

5. The UNIFEM report observes that contradictions in laws may also serve to perpetuate gender-based violence, especially when customary laws regarding divorce and alimony, or family maintenance payments, make it difficult for a married woman to escape an abusive situation, especially if she has children. The result may be dowry killings and acid attacks, common in India and Bangladesh:

> A total of 6,917 women died in 1998, up from 5,513 in 1996, because their families could not meet the dowry demands of their husbands, according to India's National Crime Records Bureau. Many were burned or otherwise abused, and their deaths portrayed by their husbands' families as suicides or accidents. Many more are harassed physically and mentally in other ways... India's laws forbid such practices but they are not always enforced and women and their parents are often afraid to file police reports. Convictions for dowry-related killings are declining, totaling 5.2% in 1997 and 4.9% in 1998. Meanwhile, social stigma and

economic factors make it difficult for women to leave their husbands to live on their own or to return to their parents.

> [Up] to 460 women were killed between January and June in Bangladesh, with many of the deaths blamed on suicide due to diseases. Concerned parties failed to file court cases in a number of instances, generally because of cost and the lengthy judicial process. Some alleged incidents involve the use of a skin-burning acid as well as severe beating… Hundreds of young women are being attacked "simply because they dared to say no to men." Many of the victims are teenagers from very poor families who are attacked after rejecting a man's marriage proposal. Acid throwing was ruled a capital offense in 1983, with punishment as severe as a death sentence. But no executions have resulted from the ruling. In 1998, there were 145 reported incidents of acid attacks, 87 cases filed and 14 men sentenced to life in prison, according to the Bangladesh National Women Lawyers Association. Only 10% of attackers are ever brought to trial (UN Wire, July 7, 2000)

6. In many cases, UNIFEM notes, existing laws are insufficient due to inadequate understanding and enforcement. In Cambodia, for example, police and judges interpret the law such that a man attacking his wife is only guilty of a crime if the woman is "stabbed, shot, unconscious or dead"; domestic violence is viewed as a private matter unless the injuries are near-fatal or fatal.

7. Violence against women is legitimised by blaming the victim. If a woman has been raped, the UNIFEM report observes, "her moral character, her sexual history and even the clothes she was wearing at the time are all considered in conducting an evaluation of the validity of her complaint and her testimony". Beaten wives are asked by police and judicial officers as to what they did to incite their husbands. Women are conditioned by society and the justice system to believe that they are somehow responsible for physical and sexual assaults against them. In a recent survey on gender violence in Japan over half the women respondents stated that they had experienced verbal or physical abuse from their partners, against which they lack social and legal protection:

> One woman in the survey said that while she was bleeding after a severe beating by her husband, she sought help from the police. But she was just told to check into a hotel. "I was told coldly that it is just a matter between husband and wife," she wrote, echoing many other similar stories… (IPS, September 11, 2000)

8. Honor killings in South Asia, particularly Pakistan and Bangladesh, are a cause for considerable concern. According to the Human Rights Commission of Pakistan, the number of honour killings rose to over 1,100 in 2000. While the government has criticised the practice, the Human Rights Commission maintains that nothing is being done to stop it (UNWire, November 1, 2000). According to UNICEF women's groups, police are easily bribed or persuaded to drop complaints as "domestic accidents", and many judges do not even consider the killing of a wife by a husband

to be an act of murder. Some recent cases of extreme domestic violence include the cases of

> Perveen Aktar, 37, severely burned in September when her husband, a fruit peddler in Rawalpindi threw acid on her. According to Aktar, whose face, chest and back are badly scarred, her husband wanted to return to his first wife, and she refused. She said she went to the police, but that her husband paid them a series of bribes and they did not investigate. He has since fled to another city.
>
> Kousar Perveen, a 32-year-old mother of four from Talagang, about 100 miles south of Islamabad, allegedly beaten and burned to death by her in-laws in February. According to her parents and sisters, the in-laws had forbidden her to leave their house, even to visit her ailing parents or attend a cousin's wedding, and she had quarreled bitterly with them... The in-laws reportedly claimed she had been burned in a kitchen fire, but her family said she had been tied up and murdered. Two people are under arrest, but no trial date has been set. (Washington Post Company, 2000)

9. Throughout Asia, legal processes biased in men's favour encourage violence against women. In country after country, women do not seek assistance from law enforcement institutions because they expect little response and possibly considerable humiliation. The Asian Legal Resource Centre exhorts all governments to uphold the rights of women to "equal protection of the law" (Universal Declaration of Human Rights, article 8) and to "exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private individuals" (Declaration on the Elimination of Violence against Women, article 4c).

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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Written statement*/ submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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1. In spite of the most appreciable achievements in the field of Human Rights in Europe, there are some deplorable scenes of ignorance of the fundamental rights of human beings belonging to other races even in western Europe. The xenophobia and racial discrimination has some deep roots in European culture which must be seriously considered.

2. The UN Committee on the Elimination of Racial Discrimination (CERD) has expressed in March 2000 its main concerns with respect to racial hatred in Spain.(1) The reality that the racial aspect of attacks against foreigners has not been taken into consideration, is one of its anxieties.

3. El Ejido incidents in Spain deserve special attention: Demonstrations followed by the murder of a woman by a Moroccan immigrant on 5 February 2000 led to violent attacks against Moroccan population which resulted in destruction of Moroccan properties. The attendance of several off-duty police among the demonstrators can be regarded as a sign of serious hatred against foreigners even among the police personnel. The commission of inquiries consists of jurists, journalists and members of different NGOs from 10 European countries in its report dated 20 June 2000 concluded that the aggression was organized by the political authorities.

4. The growing violent incidents against foreigners in the Federal Republic of Germany especially in the former eastern Germany has allocated an especial concern of international community in previous year. Although there were some positive developments such as debates and public discussions about the prohibition of the right extremist party "NPD" (Nationale Partei Deutscland) in August 2000, the increasing violent incidents proved that more serious measures regarding hostilities against foreigners are inevitable.

5. According to the Antifaschistische Aktion (A German NGO), the real rate of racial violence in Germany is much more than the official figure. The Centre for Democratic Culture (Zentrum fuer Demokratische Kultur, ZDK) has the same idea.

6. The attack by skinheads against Alberto Adrian, from Mozambique, who lived for 12 years in Germany and his wife was a German, on 10 June 2000 which led to his death (2) and bomb explosion in Duesseldorf can be regarded as the signs of uprising the xenophobia in Germany.

7. The UN Committee on the Elimination of Racial Discrimination (CERD) in its conclusions on 22 August 2000 was concerned about the recent upsurge in racism and xenophobia which resulted in increasing neo-nazi violence in Sweden. The Organization for Defending Victims of Violence (ODVV) believes that these concerns must be taken into consideration.

8. A group of Swedish NGOs has published a report to the UN Committee on the Elimination of Racism on 28 July 2000. The following failures deserve special concern in our opinion: Lower constitutional protection for foreigners, growing interest in racist and Nazi ideologies, growing racially motivated crimes, production and distribution of "White Noise" music and its undeniable effects on exiting neo-nazists, ignorance of the article 29(2) of the criminal code against racially motivated crimes.

9. The authorized activities of a radio station owned by a neo-Nazi association and also light sanctions for grave racial act are among the concerns of the UN Committee on the Elimination of Racial Discrimination which have been articulated in its observations on the report of Denmark on 23 March 2000.

10. According to the Ukrainian Committee Helsinki (January-August 2000) police ill-treatment against foreigners as well as ultra-rightists racist aggressions have been taken place in this country. The attack of 50 persons to a hostel for foreign students of the Lugank Medicine Institute at the end of August 2000 is one of these incidents.

11. Continuous ethnic violence in Kosovo, especially the events in August 2000 during pre electoral period and the lack of stability and security caused serious concerns.

12. Taking into consideration of the UN Conference on Racial Discrimination in August and September 2001 in South Africa, the ODVV believes that more serious measures shall be taken in order to challenge against xenophobia and racial hatred and discrimination all over the world. The Commission can further its activities through establishment a more sufficient mechanism for monitoring the relative cases in the world.

Notes:
1/ Concluding observations by the Committee on the Elimination of Racial Discrimination: Spain. 19/04/2000. CERD /C/304/Add.95.
2/ Neue Zeit, 23 August 2000 .

UNITED NATIONS

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Written statement*/ submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE.*200101780*

ENG

1. Fifty two years have passed since the occupation of Palestine by the Zionist regime in 1948. During these years, the Zionists have violated human rights in different ways including murders, kidnaping, torture, racial discrimination, exile, trafficking in women (modern slavery) and the exploitation of children. The year 2000 has been over while the wave of massacres, violence and clashes has spread through the occupied territories during the recent Intifada. The severity of these clashes has been unprecedented in the past 52 years. During the period 28 September-30 December 2000, 343 people have been killed. Although by issuing certain resolutions, the United Nations has condemned the Zionist regime, most of them were vetoed by the United States of America. The latest one was issued on 7 October 2000 (Resolution 1322). This resolution covers the painful events, which have taken place during the period 28 September-30 December 2000. It calls on the Zionist regime to be loyal to its commitments according to the 1949 Fourth Geneva Convention relative to the protection of civilians in time of war. Unfortunately, Israel continues violating human rights without any consideration to the United Nations resolutions.

2. The United Nations General Assembly by vast majority has adopted a new resolution and condemned Israel for severe clashes and excessive use of force against civilians. 92 countries voted for it, 4 against and 26 abstentions. Fifteen of European Union member countries also voted for it and 6 abstained from voting. The Commission on Human Rights has also adopted a resolution and condemned Israel for war crimes and the abuse of Palestinian human rights. This Commission has also appointed an investigation body to investigate he violations of human rights closely within the occupied territories. Looking into the different reports prepared by the non-governmental organizations and the independent media, Israel has been condemned by the international community and not only by Muslims.

3. The photo of 12 year-old Palestinian child, Mohammad Jamal Aldorah, murdered at Gaza Strip, which was taken by a French reporter and was broadcast at the most international media and published in international press was a clear example of Israeli soldiers' violence against innocent children. First, the Zionist regime announced that he had been killed by Palestinian soldiers then they said this child had been engaged in the crossfire. The last charge against him, which was said, as a question was:"Why was he there?" but the real question is that:" why the Israeli soldiers were at the center of Gaza and why they shot at the civilians including Mohammad Aldorah?" He is not the only killed Palestinian child; Sara Abdolazim Hassan the 18-month old Palestinian girl was also killed in the back seat of her father's car. Many other children have been killed near their houses or inside, for example, 12 year-old Moeed Aljavarish was shot in the garden of his house. Most of these children have been shot in the upper part of their body with high-velocity bullets. Most of the time their eyes have been the aim of Israeli shootings by rubber bullets. In an attempt to disperse the demonstrations, the Israeli military authorities have used live ammunition, rubber coated steel bullets, live bullets, Lao missiles, tear gas, and rockets fired by infantry and from helicopters or armored vehicles. About 40 percent of the wounded are children below 18. According to the International human rights organizations, 86 children below 18 were killed and over 3000 injured during the period 28 September-20 November 2000.Hundreds of Palestinian Children have been obliged to abandon their homes in order to escape violence and the destruction of family dwellings has left many children in the situation of food shortage and without access to medical care. The education system of Palestine has been disrupted and more than 40 schools have been closed since the beginning of October or are unable to operate owing to the curfew or closures. Many children suffer from psychological

and social problems, which are the consequences of the violence in occupied territories, so they are afraid of leaving their homes or, in some cases of going back to their homes, and suffer from sleep difficulties. These events have resulted in the deterioration of children's educational performance.

4. The Palestinian children have to work long hours in order to support the economic situation of their family. Some of them work 10 hours a day and 60 hours a week for 1000 Shakels and some earn 6000 a month. The parents force their children to work because they need money; and the employees exploit the children in different ways, since they are aware of this matter. According to the laws of occupied Palestine it is prohibited to force children under 16 to work, but the employers of private sector use children as cheap workers whose salary is usually 40 percent less than adults'. These children lie about age when the Ministry of Work inspectors, visit the workshops and factories, in order not to lose their jobs. According to the statistics of the autonomous government of Palestine, 36000 children between 10 to 17 do different jobs at Gaza Strip and West Bank and a considerable number of children below 10 even about 5 years old work at some part of the occupied territories. Arab Palestinian citizens are the poorest people in the occupied territories, 33 percent of them are poor and one out of three are under the line of poverty. The statistics released by the Organization of National Insurance related to the Israeli Ministry of Work and Welfare suggests that the number of Arab poor children is three times as the Jewish ones (Shargol Osat News paper). It can be concluded that there are many social class differences in the occupied territories and racial discrimination and the abuse of minority rights is also apparently spreading.

5. Modern slavery is the story of human business in the recent century. There are some children and women who are suffering from poverty and have to believe in the unreal promises for example better life and employment in the countries like Israel, which accepts immigrants. For the first time on Nov 1997, the Israeli organization (IWN) issued a report about women smuggling to Israel. This issue, which was reported by Martina Vendenberg was the first case, which has revealed some million dollars bargaining of obscene act and human business at Israel. The Israel women's network (a non- governmental organization) estimated in a report that 70 percent of prostitutes in Tel Aviv are from former Soviet Union, and about 1000 women are smuggled to Israel per annum (New York Times. January 11 1998). Amnesty International in a special report issued on May 2000 titled as "This is so" has announced formally that:"Israel has not fulfilled its duty about the rights of women who have been brought to this country and have to do obscene acts (Jerusalem Post: May 19, 2000).

6. One of the forms of human rights violation in the communities is racial discrimination. The occupied Palestine is one of the communities where there is apparent racial discrimination. The citizens of this territory are divided to two groups; Arabs and Jews. Although both of them belong to the same community but we can see clear differences between them, which are the consequences of racial discrimination. Arabs are known as second-class citizens and deprived of some rights, which the Jews enjoy, for example: the retirement, social, unemployment insurance, and other citizenship rights. Arabs have to accept the citizenship of the Zionist regime in order the racial discrimination to be removed and they can enjoy the rights of citizenship and have other privileges. So every day we can see Arabs who are competing for giving Israeli citizenship. Forcing Arabs to accept this citizenship is a kind of human rights' violations. Although Arabs are

the real and main owners of Occupied Palestine, they are in a minority in their main land, because the Zionist regime is ruling on this territory and has been recognized by the United Nations, and Arabs do not have an autonomous government. Although the autonomous government of Palestine was supposed to be announced on 13 September 2000, Israeli severe forces prevented it. This is also a kind of racial discrimination .The International Community should take appropriate measure and support the establishment of the autonomous government of Palestine.

7. The second paragraph of Article 13 of the Universal Declaration of Human Rights says that every body has the right to leave his\her country or return to it, and the same sentence has also declared at the section 4 of Article 5 of the Convention on the Elimination of All Forms of Racial Discrimination. Unfortunately, more than 4 million Palestinian refugees are deprived of this right. The problem of Palestinian refugees is one of the most difficult problems of the region and should be solved. The opposition of Zionist regime with the return of Palestinian refugees to their country is flagrant violations of human rights. Resolution 194 of UN General Assembly on 11 Dec 1948 declares that the Palestinian refugees who have been homeless because of war should return to their country and their losses should be compensated. This resolution is one of the important parts of Palestinian international and legal resolutions, which no body can deny, but unfortunately the Zionist regime evades its enforcement. After Ihud Barak's resignation in December 2000, the Zionist regime has agreed to withdraw of Al-Ghods problem in order to put an end to Intifada but has not agreed to return the rights of refugees and solve their problems and this is the clear violation of human rights.

8. All we said was a part of the cases of human rights abuses by Israeli Army. The Organization for Defending Victims of Violence calls on the UN General Assembly and Security Council as the highest international association and also the Islamic Conference Organization, Human rights Watch, the European Union, Arab Union and all non-governmental organizations and human rights defenders to condemn Zionist regime as the violator of human rights and force it to respect human rights in the occupied territories by restoring to practical methods (economic sanctions). The Organization for Defending Victims of Violence also calls for an end to clashes and violence committed by this regime. Those responsible for the killings of the Palestinians should be tried in an international fair court as war criminals, and the occupation should be ended so as peace and security can return to the region.

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Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement*/ submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. * 2 0 0 1 0 1 0 7 8 4 *

ENG

1. The Organization for Defending Victims of Violence welcomes the democratic developments in the field of human rights in Serbia and Montenegro following the defeat of Milosovic in presidential elections.

2. Transferring of an indictee to the ICTY and cooperation with this court by Croatian government after the death of Franjo Tudjman shall be regarded as a positive progress in human rights in this country.

3. The Organization for Defending Victims of Violence calls on the international community to provide the facilities for trying the other war criminals before the International Criminal Court.

4. The problem of authoritarian governments in Central Asia and the ignorance of fundamental human rights in this region is one of the most important concerns of human rights defenders.

5. The battles between the troops of Uzbekistan government and the Islamic movement of Uzbekistan resulted in the displacement of the people in southeastern Uzbekistan. The campaign of Uzbekistan government against religious extremism has led even to the arrest of students who study in the independent Islamic institutions. Religious literature is one of the charges which can end into the arrest of the students who would like to study the course. The systematic torture against independent Islam in Uzbekistan *(1)* must be taken into consideration by the Commission.

6. The attempts of the Government of Azerbaijan to exclude opposition parties prior to November parliamentary elections and the same behaviour on behalf of Tajikistan government in order to exclude opposition parties from the vote in February 2000 elections *(2)* have caused concerns about the situation of human rights in these two countries.

7. The Organization for Defending Victims of Violence welcomes the democratic approaches taken by the new elected president of Turkey, Mr. Ahmed Necdet Sezer.

8. Despite the hopes arisen after the election of Mr. Sezer, three traditional restrictive lines of freedom of expression in Turkey remain and being implemented severely: role of ethnicity, religion and military in politics.

9. The Article 312 of the Turkish Criminal Code is the most notorious pretext which has been resorted to, to inhibit freedom of expression in Turkey; the following figures have been among the convicted persons under this article :

- Former Prime Minister, Necmettin Erbakan for a speech in March 1994, which was not advocative of hatred or violence.
- Recep Tayyip Erdogan, the former mayor of Istanbul for reading a poem which was inoffensive.
- Former education minister and leader of the Rebirth Party (YDP), Hasan Celal Guzel. He is being held at Ayas closed prison in Ankara.

10. The convictions under Article 312 have been regarded as the violation of the Article 10 of the European Convention on Human Rights in several judgements of European Court of Human Rights.

11. The attempts for reforming the Article 312 was confronted with the veto of the Turkish army.

12. The conclusions of the Human Rights Commission of Turkish Parliament in March 2000 which contains undeniable evidence of torture even against children proved that the Report and recommendations of European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) *(3)* were totally neglected by the Turkish authorities.

13. The situation of human rights defenders, especially Mr Akin Birdal, the former president of the Turkish Human Rights Association (HRA) who was re-imprisoned in March 2000 on the ground of his speech four years earlier calling for peace and understanding, is one of the most important concerns of the Organization for Defending Victims of Violence.

14. After coming into power of Jörg Haider in Austria, it seems that a new tendency towards more restrictive measures inhibiting freedom of expression has appeared. Conviction of Professor Pelinka who accused Haider for his racial bias can be regarded as the sign of this dangerous appraoch.

15. According to Amnesty International, the high range of death in police custody in United Kingdom has raised serious concerns. *(4)*

16. Certain murders which occurred in Northern Ireland have been never considered adequately by the United Kingdom authorities. For example, the cases of Patrick Finucane, murdered Belfast lawyer, or Robert Hamill and also the attacks and operations of loyalist paramilitary group and the role of the agents of the United Kingdom have been neglected deliberately. *(5)*

17. Poor conditions in detention facilities which have even led to death of detainees in France is one of the most serious concerns regarding violation of human rights especially with respect to foreigners in this country.

18. The condemnation of France by the European Court of Human Rights for long detention of Mohammad Chalabi on 9 November 1999 would be regarded as a sign of failures in the issue of detention in this country.

19. The lack of protection to asylum seekers who have not been persecuted by a state or quasi-state actor is one of the concerns as regards the fundamental rights of these individuals in Germany. Restrictive definition for state or quasi-state actor in relevant regulations which exclude even the entities such as Taliban in Afghanistan is one of the reasons of discrepancies between German practices and the provisions of the Geneva Convention and precedent of European Court of Human Rights in this regard. *(6)*

20. Ill-treatment during the forced deportation of asylum seekers which has led in some cases to death is also one of the most serious concerns regarding the fundamental rights of asylum seekers in Germany.

21. Despite repeated declarations from the United Nations and international human rights organizations, Israel continues to use lethal force against unarmed civilians. The Organization for Defending Victims of Violence has stressed repeatedly over the period of the current Intifada that such acts constitute crimes of war. The killing of a resident of occupied territory in circumstances that are not life threatening to the army of occupation is willful killing, and is thus a grave breach of the Fourth Geneva Convention (art 146,147). Moreover, article 32 of the convention stipulates: "The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. The prohibition applies not only to murder, torture, but also to any other measures of brutality whether applied by civilian or military agents." In light of the enormous loss of life over the past few months, with most of those killed being unarmed Palestinian civilians, the Organization for Defending Victims of Violence calls on the High contracting parties to the Fourth Geneva Convention to abide by their article 1 obligation and ensure Israel's adherence to the Conventions provisions pertinent to territories under belligerent occupation. The Organization for Defending Victims of Violence calls on the Commission on Human Rights to condemn such cruelties and atrocities which have happened during the past months in the occupied territories by the Israeli army.

Notes

1/ Human Rights Watch World Report 2001 : Europe and Central Asia.

2/ Ibid.

3/ CPT / Inf (2000) 17 [en] - publication Date : 7 December 2000.

4/ See : Amnesty International, "United Kingdom: Accountability and Transparency Needed to Fight Deaths in Police Custody, press release, 17 May 2000.

5/ Based on the Human Rights Watch Report 2001: United Kingdom / Northern Ireland.

6/ Amnesty International German Section, "amnesty international zieht zum Tag des Fluechtlings Bilanz: Nach einem Jahr rot-gruenen kaum Fortschritte in der Fluechtlingspolitik, 30 September 1999.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: FREEDOM OF EXPRESSION

Written statement*/ submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE.*200 10 0788*

ENG

1. After the triumph of reformism in the presidential elections on 23 May 1997, an open political atmosphere was gradually created in Islamic Republic of Iran. In this period, a relatively suitable circumstances were created for launching different and even contradicting ideas about various social, political, cultural and economic and even religious subject-matters; mutual discussions have been formed which resulted in transparency and informative campaigns in different aspects of legal and political issues for people. Unfortunately, there are certain concerns regarding the situation of independent press in Islamic Republic of Iran.

2. This year, After the 56th Session of the Commission on Human Rights, a process of banning the press in Iran started by the Judiciary and the Special Court of Press. During some months, 30 newspapers and periodicals have been banned : Newspapers : Bahar, Bayan, Ham-mihan, Moshakerat, Sobhe-Emrooz, Payam-Azadi, Azad, Arya, Aftab-e Emrooz, Akhbar-e Eghtesad, Asr-e Azadegan, Fath, Bamdad-e-no, Mellat; Periodicals :Payam-e Hajar, Aban, Jebhe, Ava, Arzesh, Gozaresh-e Ruz, Cheshmeh-e Ardebil, Gunagoon, Tavana, Ruz-e dara, Iran-e Javan, Sepideh Zendegi, Khalij-e Fars, Mihan, Sobh-e Omid, Iran-e Farda,

3. Tehran Justice Office announced in a statement regarding the banning of the newspapers and periodicals referred to the Article 13 of as 'Punitive and Preventive Measures Act' adopted in 1960 and also Article 156 (para. 5) of the Constitution of the Islamic Republic of Iran.

4. Following the closing-down of the first series of newspapers and periodicals, the Ministry of Culture and Islamic Guidance issued a statement protesting to this measure. Also the Legal Committee of the Journalists Association, in an analysis, considered such measure of Tehran Justice Office illegal. Also many jurists have announced the legal reference of such measure by Tehran Justice Office incorrect.

5. One of the fundamental rights of individuals as stipulated in the Constitution of the Islamic Republic of Iran is the principle of freedom of expression mentioned in Articles 23 and 24. Article 23 states that "the investigation of individuals' beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief." And Article 24 states that "publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public. The details of this exception will be specified by law." Also, freedom is a main part of the famous slogan (freedom, independence and Islamic Republic) based on which the Islamic Republic was shaped. It is a fact that freedom of expression and belief and freedom of press should be realized and respected in a cultural society like Iran. Meanwhile, the Islamic Republic of Iran is a State Party to the International Covenant on Civil and Political Rights which in Article 19 (2) stipulates : "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

6. The point that should be considered that the process created after the election of Mr. Khatami as the president is inevitable and it cannot be prevented or stopped. Despite all these banned newspapers and periodicals, there are new press groups that have replaced the previous banned newspapers, which are published but trying to respect the other ideas and show more tolerance in the context of Iranian society. However, the freedom of expression is realized in other forms

rather than the newspapers. There have been certain gatherings especially students and workers gatherings which have been held with less attacks of the pressure groups. The rule of law is a necessity for our society.

7. The Organization for Defending Victims of Violence believes that the freedom of expression and the freedom of press and tolerance are the essential elements for creation of a civil society. It is hoped that in this year which has been proclaimed as the Year of Dialogue Among Civilizations (initiated by the Iranian President), freedom of expression should be respected in this country.

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INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE

Written statement*/ submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

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GE. *200-0792*

ENG

1. One of the most important concerns of thinkers and theorists in humanities is to define certain concepts such as participation, democracy, equity, development, social and economic justice, etc., basically with a view to finding the ways for their realization. It's a fact that different schools have offered different preconditions and ways, but the point is that, among other things, the role of women and their important status have been considerably recognized in recent decades as a main factor in realization of such lofty ideals. This has become a benchmark in all endeavours for improvement by many groups, organizations, national and international bodies and more important than others, by the United Nations. In fact, one can say that few causes promoted by the United Nations have generated more intense and widespread support than the campaign to promote and protect the equal rights of women.

2. In addition to the Charter of the United Nations, the Nairobi Forward-Looking Strategies, the Platform for Action adopted by the Fourth World Conference on Women (Beijing, 1995), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), many national, regional and international conferences have directly addressed the issue of elimination of discrimination against women in the second half of the Twentieth Century. Other important events such as the 1992 United Nations Conference on Environment and Development (Rio de Janeiro), World Conference on Human Rights (Vienna, 1993), the 1994 International Conference on Population and Development (Cairo), the 1995 World Summit for Social Development (Copenhagen) should be added to the list since they have also emphasized the women's role in their related subject to forge a consensus on actions to be taken in support of the advancement of women as a part of the United Nations comprehensive goals on development issues. If one decides to create a list of such historic legacy of agreed strategies, laws, decisions, standards, actions and plans to advance the status of women worldwide - belonging to the past fifty years directly or indirectly,- then several volumes of books should be edited.

3. However, despite the considerable progress made during these decades, the concern over women's status and the realization of their human rights are still remained as a significant problem with different degrees. It should be admitted that - although the made progress has not been the same in different countries, and the women's share in developing countries is less than theirs in developed countries – gender discrimination happens in all countries of the world, and the only difference is the way it is done against women.

4 A question which can be raised up, is that why the women all over the world, despite all these efforts, should suffer from gender violence and discrimination? It seems that a comprehensive research should be conducted in this regard. Generally speaking, one of the main reasons for this is the existing injustices in societies due to the various cultural, social and economic factors. So more logical campaigns should be organized to uproot such injustices. The social movements and interested organizations should address these injustices more than before, since when justice is "marginalized" in various social, economic and political aspects of life, then discrimination and oppression are appeared.

5. As it has been mentioned in the actions which should be taken by the governments in the final document of Beijing+5, the governments have been requested to create and maintain a non-discriminatory and gender-sensitive legal environment by reviewing legislation with the view to

striving to remove discriminatory provisions as soon as possible, preferably by 2005, and eliminating legislative gaps that leave women and girls without protection of their rights and without effective recourse against gender-based discrimination; It is in this context that we request the Commission on Human Rights to decide to create a mechanism for reviewing and monitoring the discrimination against women. We propose the Commission on Human Rights to appoint a special rapporteur on discrimination against women.

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RIGHTS OF THE CHILD

Written statement*/ submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *2001-07796*

ENG

1. Humanity throughout its complex and active existence has been a witness to many troubles and events, but human history apart from being full of turmoil has always been in the mysterious pursuit of the discovery of truth. The present era, at times seems to threaten the existence of humanity with mental and spiritual turmoil, nevertheless the search for the meaning of truth of creation still has the whole of humanity under its influence. Today the screams of the truth, justice, peace and freedom seekers can be heard throughout society and science.
This phenomenon in itself shows the urgency for the development of qualities and humanitarian activities. Meanwhile, children have great significance as the main assets of creation and the spiritual survival of humanity. In reality children are potential creatures for the survival or the annihilation of the human race. They are white plaques on which you can write some of the most beautiful humanitarian poetry or pollute them with the vilest and most ugly words. On this basis the responsibility of the whole of humanity in the international and social levels should be considered very heavy. It is very important to know that in this International Year of Dialogue Among Civilizations, more than ever before to recognize the importance of social dialogues and actions as a single human family to develop our efforts for our children - the creators of our future.

2. Child labour is one of the clearest displays of the abuse of children's rights. The exploitation of children for profit has dominant roots in poverty. Poverty here isn't just economic poverty, but cultural poverty is the basis for the professional exploitation of children. Financial poverty alongside mental poverty are the key factors in the profiteers who exploit children for their own gains. Some children who are victims of family abuse also fall in the trap of these exploiters. On 17 June 1999, when the member states of the ILO unanimously voted to adopt Convention 182 on the Worst Forms of Child Labour, it was the commitment of the world community to stop the suffering of millions of children. It was a recognition that ending the commercial exploitation of children must be one of humanity's top priorities. It was accepted as a cause that demands immediate attention and immediate action.

3. The deprivation of children from elementary education is one of the most serious realities of the negligence of their rights. Today having elementary education is a serious necessity in the continuation of the survival and growth of human culture, on these basis children are in search of better understanding of their environment. Over 125 million children are denied the right to school education and may never get an opportunity to learn reading, writing and arithmetic skills. Right to education is a basic right and we call on governments to promote the political, social and economic conditions that are required for the realization of the right to education in all nations, for the achievement of equal educational opportunities for all, for the expansion of public educational services and for the improvement of their quality

4. Any clean soul will accept that prostitution and the use of children in pornography is one of the most visible crimes against human dignity. Today more than ever before opportunists and profiteers have targeted the souls of children to corrupt for their gains and with all their might they try to destroy the innocence in children. The full international and governmental cooperation is the only solution to this tragedy. Prostitution and trafficking in children not only endangers social security but it endangers the whole world in its continued existence. People who participate in these despicable activities are themselves sick who try to infect innocent children with their sickness, so that the future human is a corrupt human one without morals and

manners. On this basis humanity has an obligation to combat this evil phenomenon, so that while strengthening the ethical institutions and to protect them.

5. The international community in its efforts has had some success in the realization of children's rights. But some of these successes have encountered defeat. Some of the most important reasons of these failures are not understanding or ignoring local characteristics, not benefiting properly from national and social cooperation not following through and ineffective actions, the weakness in corrective organization and training, and finally the non-existence in national follow-up and assessment mechanisms which have jurisdiction and legal. This is why for the realization of the above mentioned points effectively new plans must be drawn and an extra sensitive approach must take place to solve these problems.

6. Unfortunately every year many children lose their lives from exploding anti-personnel mines or are maimed. These children are the victims of countries where there was war and the authorities never cleared up the minefields. Although there is a great importance in resolving this and there have been many international conventions and treaties, there are still countries who do not give importance and the urgency in clearing up the mine-fields. It is necessary for everyone to unite in the cooperation to resolve this in particular some countries who have in their ossession maps of mine-fields in the territories they used to occupy who refuse to give the maps to the countries concerned. These are subjects that must be pursued till a positive solution is achieved. Also the creation of an information and census center is one of the international suggestions, which would be very effective. At the same time plans for financial aid for the clearing of the minefields and medical and social help for the victims of mines must continue.

7. The engagement of children as child soldiers in the armies by giving them very basic military training and sending them to fronts to face the enemy is an repugnant for everybody, however at least 300000 children are currently participating in armed conflicts around the world, and tens of thousands more are legally recruited members of armed forces and could be sent into combat at any time. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts which was adopted by resolution A-RES-54-263 of 25 May 2000 at the fifty-fourth session of the General Assembly of the United Nations was a great move. It is hoped that the countries become a party to the Convention as soon as possible before the Special Session of the General Assembly on Children so as it enters into force during the year 2001.

8. Possibly many of the intellectuals of today's world that protecting the children is the best way for human civilization to fight any kind of upheaval and to reach genuine peace and calm. Islam is the last God-given religion of this planet it has clearly and kindly mentioned other religions of the world. Islam pays great attention to the munificence and greatness of man over all other things. This is why the importance of the child is greatly stressed. Almost all the main and secondary scribes of the Islamic religion have set aside important noticeable sections in the importance of children, their up bringing and education and the necessity to set aside great finances for the mental and physical health of the children. It is enough to say that the study of the Islamic faith will show that it is a manual and a guidebook in how to bring up our children for a better world.

9. Governments are governments. This sentence has many meanings. It doesn't solely mean that governments are separate from nations. In most instances, we observe that governments do not get involved with the tiny strands of the hidden society. The truth lies in the creation of cooperation between civil, non-governmental and governmental institutions; this will be a great potential for the solution of children's problems. People are usually clever. Because they distance themselves from many previously given equations of their governments. Especially the intelligence of humanity is influenced greatly when the human sentiments are used as a substratum for the fate of humanity. The subject of children and the attendance to their legal rights and problem is one of the activities that many people like to move toward and protect the children. On this basis, non-governmental organizations have a great capacity and tolerance to help. The important point to note is that government organizations must increase their capacity to work with people. NGOs do not have the usual rules and regulations of governments, but they have their own rules and regulations on how to approach incidents and happenings, and even in most cases they are a very effective help. What is important is this that Government organizations have an obligation to understand the people and cooperate with them. We mustn't forget that these people (NGOs) are the real parents of the children, and must work with them wisely for the rights of children. Unfortunately the luster and power of governments overshadows the hard work NGOs are trying to do and things have to change drastically.

10. We in the Organization for Defending Victims of Violence (ODVV) have a serious and fundamental belief. Children's Rights Activists must know time is short. If we get lost in the corridors of administration and budgeting we will never reach our goals and may even be harmful to the urgent needs and attention of these children. It may even be harmful for these children, and cause irreparable damage to the world body. Not a day goes by that we don't worry about the children or better to say "the future makers"! Sadly it seems speed at which a progress is being made for them isn't great enough. Let us look at these problems realistically. Many of these bright ideas and solutions are not working. Let's discard our ineffective plans, and set in motion ideas and plans that have should quick and effective success. This act will unite us worldwide to help children. Just as we rush to inoculate our children against diseases and wait to see the result, let us rush to help the children and then witness positive results from our efforts. That is the only time we can trust and maintain our successes. We must embrace each nations culture from the bottom of our hearts and not just on the outside. We must understand the important differences of humanity. The embrace of all cultures of the world will help us to protect the children form all the evils that we fear may harm them. Longing for that day to come!

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SPECIFIC GROUPS AND INDIVIDUALS: MINORITIES

Written statement*/ submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2001]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *200101080 0*

ENG

1. The permanent abuse of minorities, also the national minorities in Europe especially the Roma, all over the Europe and Kurds in Turkey, have been not sufficiently taken into account. There are serious violations of fundamental rights of these minorities and the lack of any authority for a successful appeal available for the victims of these violations at national level and inadequacy in considering the relevant cases at international level shall be considered by the Commission.

2. Several raids of Italian police on Roma settlements and treatment of police during series of operations to Roma caused serious concerns regarding the situation of Roma in this country.

3. According to the European Roma Rights Center (a member of Helsinki International Federation), in raids on 3 March 2000 and 28 May 2000 in Rome, carried out by he Italian police, violence and use of abusive language, destruction of Roma's properties and the use of excessive force have been taken place.

4. There are some cases of apparent hatred in Italian media against Roma, e.g. an article in Panorama on 22 August 1999, Il Sole-24 Ore on 31 August 1999 and Corriere della Sera on 22 July 1999 following the Kosovo crisis and flee of Roma from Kosovo to Italy. This issue must be taken into consideration and necessary measures have to be taken, in order to prevent the extension of xenophobia in this country.

5. The ODVV believes that there is a clear failure on behalf the Government of Turkey in seeking a peaceful solution for Kurdish problem in this country. The systematic and total ignorance of Kurd identity and resistance of this state to accept a distinctive identity for Kurd minority in Turkey shall be regarded as an obvious violence of fundamental rights of Kurds.

6. Any assertion or statement, especially in media with respect to Kurd identity can be confronted with the imprisonment or various charges in Turkey.

7. Pinar Selek, a socialist, has been in jail for 2 years. Her imprisonment was in result of her sociological research on PKK militants.

8. Nadire Mater, a journalist, has been faced in July 2000 a conviction for 12 years only because of interviews which have been published in her book. Guler Yildiz, the reporter of Cinar newspaper in Marcin has been charged only for quoting from Mater's book.

9. According to the European Roma Center in its letter to the Macedonian general prosecutor on 13 July 2000, an apparent violence and ill-treatment by police has taken place against Roma in Stip (central Macedonia) on 26 May 2000.

10. There are many cases of exodus of Roma, violence and ill-treatment against them and also segregation in schools regarding the Roma children, especially in Hungary and the Czech Republic.

11. The Organization for Defending Victims of Violence (ODVV) believes that the Commission on Human Rights shall try to find a final solution for the problem of racism and intolerance towards minorities in the Europe.

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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement*/ submitted by the European Federation of Road Traffic Victims, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2001]

*/ This written statement is issued, unedited, as received in English, French and Spanish from the submitting non-governmental organization(s).

GE.*2001-0824*

ENG

1) Each year, according to the WHO data, more than 1.000.000 people are killed in road crashes throughout the world, 20 million are injured, from whom 2 million will remain disabled or crippled for life. The socio-economic costs of these casualties, such as medical, juridical and funeral expenses, as well as loss of income and maintenance for relatives, induced psycho-somatic diseases and incapacities for family members, rehabilitation, care and maintenance for permanently disabled and crippled victims including those with brain injury, amount yearly to more than 500 billion US dollars.

2) The situation in the highly motorized countries, which have practically reached the saturation level for the number of cars, is more or less static. In the developing countries, which undergo a rapid development of motorization, the number of road casualties, unfortunately, increases rapidly, in a similar way as they did in developed countries 30 or 40 years ago. Thus, if nothing is done to significantly improve road safety throughout the world, the above, already too high numbers, will continue to increase, principally at the expense of the developing countries.

3) The present situation, which is not due to fate, is absolutely intolerable and contrary to the most fundamental Human Rights. Successful road safety strategies have been developed in some countries, for example in Sweden, where the mortality due to road traffic is per inhabitants, per cars or per kilometers traveled many times lower than in the developing countries and also in some developed ones. These strategies are based on improvements of infrastructure, road signs and vehicles, on improvement of the behavior of drivers and on efficient first help and medical assistance. These strategies are already available and could be transported, possibly adapted, to other countries, as already the Global Road Safety Partnership (GRSP) begins to do.

4) The costs required to implement such successful road safety strategies have proved, in most cases, to be lower than the socio-economic costs they permit to avoid. Many road safety measures cost much less, even ten times less, than the socio-economic cost of crashes. Economically, the implementation of a proper safety policy, at the level of a country, represents an outstanding investment, which is repaid many times, in addition to saving human life and avoiding extreme suffering. The policy to implement in priority the low "cost / benefits" measures is presently practiced by the Commission of the European Union.

5) The FEVR urges Governments, Parliaments and municipalities to implement without delay the most successful road safety strategies, as well as to finance them adequately. The FEVR urges also the United Nations' Economic and Social Council and its concerned subsidiary bodies to actively promote road safety as well as to enshrine the most efficient measures in the various international Treaties, Conventions and Recommendations it is preparing or updating. As mobility is a fundamental Human Right, the Governments have the duty to remove the deadly consequences quoted under item 1).

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement submitted by the Indian Movement "Tupaj Amaru", a non-governmental organization in special consultative status*

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

* This written statement is issued, unedited, as received from the submitting non-governmental organization.

THE BLOCKADE AGAINST CUBA IN INTERNATIONAL LAW

1. After breaking off diplomatic relations with Havana on 3 January 1961, the Government of the United States of America, by Presidential Proclamation 3447 of 3 February 1962, unilaterally decreed an economic, commercial and financial blockade against the Republic of Cuba.

2. The so-called embargo is not simply a "bilateral matter", nor was it decreed for reasons of "national security", as the representatives of the United States of America maintain; it is a purely political dispute of concern to the international community. Any efforts to cloak an economic war in the guise of an embargo are devoid of legal grounds or moral justification in a changing world.

3. From the standpoint of international legality, both the embargo and the blockade as well as the acts of reprisal and economic coercion taken by one State against another violate the imperative norms of international law and the freedom of movement of goods, persons and capital, and constitute a major obstacle to the country's development.

4. For 40 years Cuba has been and continues to be the victim of economic hostage-taking, marginalization and warfare that are unprecedented in the history of international relations. Ten successive presidential Administrations in the United States of America have endeavoured and continue with implacable determination to tighten their blockade against a small country with the obvious intention of destroying the Cuban socialist experiment which is taking place only 90 miles from the most powerful empire ever to have subjugated the world.

5. For nine years in a row since 1992, most recently with a broad majority of 167 votes in favour, 3 against, 4 abstentions and 15 absent voters, the United Nations General Assembly has adopted resolutions calling on all States to refrain from promulgating or applying laws and measures aimed at strengthening the blockade against Cuba and to take the necessary steps to invalidate the extraterritorial effect of any such laws and measures as soon as possible, in accordance with their legal regime.

6. Yet the Washington Government, in blatant defiance of the spirit and letter of the Charter of the United Nations, and in disregard of the resolutions of the General Assembly, is not only maintaining an entire set of anti-Cuban regulations, such as the Cuban Assets Control Regulations of 8 July 1963, which prohibit trade with Cuba, the Trading with the Enemy Act of 1917, the Cuban Adjustment Act of 1966 and the Cuban Democracy Act of 23 October 1992, but has also promulgated laws of an extraterritorial character and legislative measures that intensify the economic war which are counter to the norms of international law and rejected by the community of nations.

7. After the Republican victory in the 1994 congressional elections, Senator Jesse Helms, who was promptly appointed Chairman of the Senate Foreign Relations Committee, immediately announced that the Torricelli amendment would be converted and called the Cuban Liberty and Democratic Solidarity Act.

8. Two years later, on 6 March 1996, one month after two aircraft belonging to the organization Brothers to the Rescue were shot down, the United States Congress promulgated in its entirety the sinister Cuban Liberty and Democratic Solidarity Act, better known as the Helms-Burton Act. This legislation, which had already been partially implemented, with the exception of Titles III and IV, is none other than the bill introduced by Robert Torricelli, representative from New Jersey, and adopted by President Bush on 23 October 1992.

9. Both the Torricelli amendment and the Helms-Burton Act, are profoundly political in nature and thus constitute another means of exerting political and economic pressure and pursuing an obvious goal: undermining and preventing normal trade relations and foreign investment in Cuba, under the threat of lawsuits and restrictions on travel to the United States of America.

10. With this political strategy, the Helms-Burton Act quite simply a double-edged sword of Damocles which the North American Empire wishes to use to force changes in Cuba's domestic and foreign policy and to overthrow the current regime in order to reinstate the rule of the marketplace on the island. From a legal standpoint, it is a genuine aberration in the form of a surreal legal "trick" that is highly interventionist in spirit.

11. In the light of the interpretation by international experts and scholars in the field of constitutional law, the Helms-Burton Act, specifically as regards its legality, has been shown to constitute a serious violation of the Vienna Convention on the Law of Treaties, the Universal Declaration of Human Rights, the World Trade Organization and other instruments that the United States Government has signed.

12. It is surely obvious that the essential goal of the world's strongest economic Power is to internalize its sanctions policy in order to stifle the Cuban economy by the following means:

(a) Section 103 prohibits loans, credits or financing by individuals or agencies, including United States companies, for transactions involving confiscated property;

(b) Section 104 requires the United States Government to oppose Cuba's membership in the International Monetary Fund, the World Bank and other international development agencies;

(c) Section 109 authorizes the United States Government to spend millions of dollars ($6,111,000) to encourage acts of subversion, sabotage and terrorism and to encourage Cuban citizens to emigrate secretly.

13. Title III of the Helms-Burton Act is the most controversial. Its nature and its extraterritorial scope have provoked an adverse reaction from countries that maintain relations of friendship and cooperation with or have investments in Cuba as well as the unanimous rejection of the international community. This is because this unusual provision is a good example of legal extraterritoriality and interference in legal affairs that usually fall within the territorial scope of a State.

14. According to eminent legal experts, this is the first time in legal history that a right - the right to bring civil proceedings against any individual or legal person who "trafficks" in goods or property "confiscated" by the Cuban Government from United States nationals - has been created. For the purposes of the Helms-Burton Act, the person sued is liable for compensation that may amount to three times the value of the "confiscated" property.

15. Under Title III, a person is understood to be "trafficking" in confiscated property if he or she knowingly: (a) sells, transfers, distributes, dispenses, brokers, directs or otherwise disposes of confiscated property, or purchases, rents, receives, possesses, obtains control of, uses or otherwise acquires or maintains an interest in confiscated property; (b) enters into a commercial arrangement using or otherwise benefiting from confiscated property; or (c) causes, directs, participates in, or profits from such trafficking through another person (see Pedro Castro, Revista mexicana de politica exterior, No. 53, February 1998, p. 45).

16. The framework law authorizes and encourages United States citizens to make claims in United States courts against any person who "trafficks" in property confiscated by the Cuban Government and promises them compensation.

17. This has created legal confusion in the courts in the form of a new definition of citizenship, according to which the right to make claims is freely and retroactively extended to naturalized Cubans who took refuge in the United States and who were not United States citizens at the time their property was confiscated. Under the Act, approximately 400,000 Cubans are entitled to claim compensation from individuals and companies for their confiscated property that has passed into the hands of the Cuban State.

18. Under the Helms-Burton Act it is not necessary to prove legal ownership of confiscated property, nor are claimants required to submit property titles during any phase of the proceedings. In fact, under their protection, United States courts must present claims against foreign persons and companies and accept as "definitive proof" the certification granted under the United States International Claims Settlement Act of 1949.

19. Title IV establishes that "the Attorney General shall exclude from the United States ... any alien who the Secretary of State 'determines' is a person who ... (2) 'traffics' in confiscated property, a claim to which is owned by a United States national; (3) is a corporate officer, principal or shareholder with a controlling interest of an entity 'which has been involved' in ... trafficking in confiscated property ... or (4) is a spouse, minor child or agent of a person excludable ..." (see Cuban Liberty and Democratic Solidarity Act of 1996).

20. With no legislative norms other than the State Department's instructions to the Attorney General, the Washington Administration has denied entry into United States territory to principal shareholders and officers of main or subsidiary companies and has even revoked the visas of executives, and their immediate family members, of companies from Canada and Mexico, countries that are parties to the North American Free Trade Agreement (NAFTA).

21. The authors of the Act failed to realize that the Northern Empire will not always be able to impose its implacable desire to control other countries' behaviour, and they underestimated the international community's reaction to the Helms-Burton Act, which was one of

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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by the Indian Movement "Tupaj Amaru", a non-governmental organization in special consultative status*

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

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* This written statement is issued, unedited, as received from the submitting non-governmental organization.

GE.01-10816 (E)

THE IMPACT OF STRUCTURAL ADJUSTMENT PROGRAMMES

1. Given the continuing deterioration in enjoyment of the basic rights to food, clothing and housing, in other words, the right to equitable development that would allow peoples to make effective use of their natural resources in a dignified manner, the international community needs to make a careful, objective analysis of the structural adjustment programmes imposed on developing countries by the international financial institutions.

2. In 1944, amid the devastation of the Second World War, the Bretton Woods architects established the International Monetary Fund (IMF) and the World Bank - two of the main institutions of the United Nations international financial system - to promote the economic development of the poorest countries in the world and to create prosperity for their peoples.

3. Under its Articles of Agreement, the purpose of the IMF was to "facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income, and to the development of ... productive resources", and to "promote exchange stability" and "lessen the degree of disequilibrium in the international balances of payments of members".

4. Fifty-six years after the institutions were set up, the monetary policy record is pitiful. The financial summit held in Madrid in 1994 to celebrate with great fanfare the golden jubilee of the World Bank and IMF produced the slogan "market flexibility", meaning that people's fate was to be left to the mercy of market forces.

5. IMF has been using and abusing its recommendations, which have acquired binding force, to liberalize world trade, devalue currencies, deregulate prices, freeze wages, reduce health and education budgets, and privatize State-owned enterprises at whatever cost.

6. In fact, these supranational institutions are controlled by the most highly developed countries and are tools in those countries' strategies of neo-colonialist domination. Their anachronistic mechanisms and anti-democratic procedures, as expressed in the "one dollar - one vote" formula, ensure they are not financial bodies for distributing wealth in a fair and equitable manner, since social justice is not one of their priorities and they are not interested in the material and spiritual wants of peoples.

7. The United States of America, which has run up a deficit of $300 billion without having a single structural adjustment programme imposed on it by IMF, has managed to accumulate so many privileges and such absolute power that it has aquired the right to control 17.8 per cent of the votes.

8. In practice, the most powerful economic and military Power has the power of veto in the international financial system, and this weapon enables it to block any decision that does not suit its strategic interests. Meanwhile, many indebted countries have lost some of their national sovereignty, compromised their economic independence and mortgaged their natural resources for several generations to come under the infamous "conditionality" clauses.

9. Nowadays, when we talk about the Bretton Woods institutions we are talking about the extreme poverty affecting millions of human beings around the world, the poor countries' exorbitant external debt, financial crises, rampant speculation, corruption at all levels and money-laundering by the international Mafia.

10. The structural adjustment programmes implemented for over two decades now have not been successful anywhere and have not resolved the problems endemic to the countries of the South. On the contrary, 20 years of experience have shown that these financial policies, far from promoting fair and equitable development, have had a brutal effect on the most vulnerable strata of society, particularly indigenous populations.

11. In his report on the effects of structural adjustment policies on economic, social and cultural rights, the independent expert Mr. Fantu Cheru objectively and impartially analyses the negative impact of so-called economic programmes or reforms. His conclusions and recommendations therefore deserve special attention from Governments and specialized development agencies.

EXTERNAL DEBT

12. The neo-liberal model advocated by IMF, the World Bank and the World Trade Organization (WTO) represents an attempt to turn the world into one enormous free-trade zone. The global debt rate has nowadays become a powerful social time bomb which, if it explodes, could cause the entire global economy to collapse, as shown by the financial crises in Mexico, the Russian Federation, Asia and Brazil.

13. According to the report by the independent expert of the Commission on Human Rights, at the beginning of 1996, the total foreign debt owed by developing countries to Western Governments and multilateral organizations such as IMF, the World Bank and international aid agencies was $1.8 trillion (see E/CN.4/1999/50).

14. This astronomical sum, which is beyond the wildest dreams of the poor nations, was distributed among the regions as follows: $656 billion owed by Latin America, $340 billion by Africa and $857 billion by Asia (see *World Economic and Social Survey 1997*, New York). As for the relationship between debt and gross national product (GNP), the debt burden of sub-Saharan Africa was 123 per cent of its GNP, compared with 41 per cent in the case of Latin America and 28.2 per cent in the case of Asia (ibid.).

15. This means that the rate of indebtedness of these countries doubled between 1994 and 1996. In the case of Latin America, the main debtor countries are Brazil, Mexico, Venezuela and Argentina, 81 per cent of whose debt is with banks from the United States of America (see *Revista Banco Nacional de Comercio Exterior*, Mexico, March 1991).

16. The operation of this subtle and well-honed modern-day mechanism ensures the unconditional surrender of natural resources to the multinationals, the exploitation of cheap labour and the imposition on the poor countries of the neo-liberal doctrine as a universal value system. The indebted developing countries paid creditor countries a total of $189 billion in 1995 and $213 billion in 1996 in interest and debt-servicing.

17. During the cold war, the rich countries and the Western banks were only too glad to make loans to anti-democratic, corrupt Governments and military dictatorships, whose leaders stole or used a good deal of the money to repress their own peoples. There is now a more pressing need than ever for international mechanisms to recover the money misappropriated and stolen by corrupt rulers.

18. At the same time, IMF and the World Bank refused to grant credit to Cuba and closed their doors to progressive regimes, with the clear aim of stifling their economies for strictly ideological reasons. This double standards policy is incompatible with the spirit of international cooperation that places North and South on an equal footing.

EXTREME POVERTY

19. Following the logic of the globalization of capital, markets and corporations, the neo-liberal formulas imposed by IMF, the World Bank and WTO have only served to make the majority poorer and widen the gulf between rich and poor, as well as increasing unemployment, extreme poverty, racism and xenophobia, particularly with regard to indigenous peoples.

20. Under globalization, structural adjustment programmes have not only served to drive forward trade liberalization, financial deregulation and the arrogant interference of transnational corporations in all spheres of society, but have continued to swell the army of the poor, who are marginalized and excluded from the new international economic order.

21. The criteria or indicators used at the World Summit for Social Development held in Copenhagen in 1995 to define poverty are relative, not to say subjective insofar as they do not reflect the harsh reality. Only the poor themselves know what hunger is, when the hungry person does not have even a piece of bread to eat, or shelter or a blanket to protect them from the cold or a roof over their heads or an aspirin to relieve a headache.

22. Studies carried out estimate that 1.3 billion people - 20 per cent of the world's population - are living in poverty, with some 60 per cent of these people living in extreme poverty. In the rural population as a whole, indigenous populations account for over 80 per cent of the total number of poor and extremely poor people in the developing countries (61 per cent in the case of Latin America and the Caribbean).

23. In the Russian Federation, a country in transition towards unfettered capitalism, the new oligarchs have appropriated the wealth of the Soviet people and now control over 50 per cent of the economy, channel loans to their companies and private banks, and shamelessly embezzle IMF loans. Meanwhile, over 15 million people are suffering from hunger and another 35 million live in poverty, with three quarters of the population living below the poverty line.

24. The confusion is such that, in the name of the sacrosanct economic law of supply and demand, speculators who actually produce nothing are getting rich from one day to the next by buying and selling illusory, non-existent assets.

25. At the same time, the accumulated wealth of the three richest people in the world is higher than the total GNP of the 48 least developed countries. The current international economic order is profoundly unjust, totally unsustainable and morally bankrupt.

26. Since IMF and the World Bank have failed in their mission to promote the fair and equitable development of the poor countries, the Commission on Human Rights should study as a matter of priority the impact of structural adjustment programmes on the enjoyment of human rights with a view to the abolition of the right to a veto, so that the international monetary system as a whole can be radically reformed.

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THE RIGHT TO DEVELOPMENT

INDIGENOUS ISSUES

**Written statement* submitted by the Indian Movement "Tupaj Amaru",
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE.01-10820 (E)

THE RIGHT TO DEVELOPMENT AND PERMANENT SOVEREIGNTY OVER RESOURCES

(under items 7 and 15)

I. BACKGROUND AND CONCEPT

1. Within the context of the "new international economic order", in which relations between production and consumption are based on an ultraliberal ideology, the supposed right to development is increasingly unjust, unequal and anarchic, while economic rights to the enjoyment of natural resources are increasingly restricted, limited and confined by the blind laws of the market economy.

2. In the view of indigenous peoples, the notion of permanent sovereignty over natural resources must be understood in the historic process of economic and social development as a dialectical, political concept and a source of law whose aim is the equitable distribution of wealth to ensure the survival of humanity.

3. In the light of the legal and political definitions attributed to this universal concept, sovereignty is an inalienable right which resides in the nation, that is, in the sovereign will of every collective and indivisible entity, considered as the concrete totality of society in which each individual holds or should hold a small fraction of that will.

4. It is hardly surprising that the right to the enjoyment of the wealth and natural resources that Mother Earth offers us so generously has become one of the most controversial concepts in the whole history of the class struggle, one of the most polemical themes of political doctrine and one of the most sensitive issues in the process of the globalization of wealth on the one hand and poverty on the other.

5. Countless books have been written about the interpretation and application of the principle of sovereignty; resounding resolutions have been proclaimed and demagogic speeches uttered, which in the end have merely added more confusion to its real political content and its historical nature in the trend towards the accumulation of transnational capital.

6. In the history of modern society, based on the struggle between colonizers and colonized, the rich and the poor, the powerful and the hungry, the ruling classes have been usurping sovereignty to the detriment of the popular will. Meanwhile the State, derived from the contradictions of economic and social development at a particular stage of history, has been gradually detaching itself from society, placing itself above the latter and becoming an instrument in the hands of globalization actors.

7. Nevertheless, now as in the past, an ardent desire has been growing to put an end to colonialism and neocolonialism, the causes of underdevelopment, the plundering of natural resources, the scourge of racial discrimination and extreme poverty. The break-up of the colonial system and the rise of sweeping movements of national liberation in the colonies and dependent countries have taught us that oppression and slavery could not last for ever, nor could history be stopped by obscure market forces.

8. Stricken in its own conscience and overtaken by social upheavals in defence of human dignity and liberty, the international community of States acknowledged belatedly the need to recognize the right of peoples to sovereign development entitling them to the free enjoyment of their material and spiritual heritage.

9. The legitimate aspirations for which the colonized and vanquished peoples fought found expression, perhaps for the first time, in resolutions 626 (VII) of 21 December 1952 and 513 (VI) of 12 January 1952, adopted by the General Assembly, which recognize "that the underdeveloped countries have the right to determine freely the use of their natural resources".

10. But the countries freed from the colonial yoke soon realized that the concession of independence to colonial countries was not sufficient to lead them to self-determination, if the western Powers refused to recognize their full political sovereignty and economic independence, which were basic requirements for the effective enjoyment of resources stored in their ancestral lands.

11. Fundamentally, permanent sovereignty over natural resources constitutes the keystone of the right to free self-determination, by virtue of which all peoples are fully entitled freely to dispose of their natural wealth and resources. Over time, this universal principle has found expression in a number of binding rules and jus cogens of international law, as a permanent principle placed above the will of States.

II. PERMANENT SOVEREIGNTY IN INTERNATIONAL LAW

12. The achievements of the long struggles that the colonized peoples waged down the centuries to defend the dignity and worth of the human person became enshrined in several international instruments, especially in articles 1 and 55 of the Charter of the United Nations, and in many resolutions of the General Assembly and the Commission on Human Rights.

13. In its resolution 1314 (XIII) of 12 December 1958, the General Assembly set up a Commission "ad tempus" to conduct a full survey of the legal status and economic scope of the permanent sovereignty over natural resources, considered as a basic constituent of the right to self-determination.

14. The recognition by the international community of the full political sovereignty and economic independence of countries and peoples which had been under colonial rule and others succumbing slowly to neocolonial oppression, as well as the prohibition of any direct or indirect act impairing the exercise thereof, is expressed in resolution 1803 (XVII), adopted by the General Assembly on 14 December 1962 under the title "Permanent sovereignty over natural resources".

15. For the effects of this historical resolution, which serves as a reference in the field of economic and social rights, "the right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people". In practice, neo-liberal dogma has imposed on third world countries an absurd model of development, which is contrary to the national interest and well-being of peoples.

16. In the terms of the growing flow of direct foreign investment, the resolution stipulates that "the import of the foreign capital required for these purposes should be in conformity with the rules and conditions which the peoples and nations freely consider to be necessary or desirable with regard to the authorization, restriction or prohibition of such activities".

17. In cases where authorization is granted, "the capital imported and the earnings on that capital shall be governed by the national legislation in force and by international law. The profits derived must be shared ... between the investors and the recipient State, due care being taken to ensure that there is no impairment, for any reason, of that State's sovereignty over its natural wealth and resources". These provisions have become obsolete to the extent that transnational companies unlawfully appropriated resources which were considered basic and strategic for the development of the western world.

18. In addition, the United Nations General Assembly, in its resolutions 3016 (XXVII) of 18 December 1972 and 3171 (XXVIII) of 17 December 1973, again reaffirmed "the inalienable rights of States to permanent sovereignty over all their natural resources, on land within their international boundaries as well as those in the seabed and the subsoil thereof within their national jurisdiction".

III. NATIONALIZATION - THE EXPRESSION OF SOVEREIGNTY

19. The right to full permanent sovereignty over natural resources and their exploitation was expressed in resolution 3201 (S VI), dated 1 May 1974, entitled "Declaration on the establishment of a new international economic order". Stressing the need to safeguard renewable and non-renewable resources, the General Assembly proclaims that "each State is entitled to exercise effective control over them and their exploitation with means suitable to its own situation, including the right to nationalization".

20. For the first time, this resolution raised the issue of the restitution of unlawfully acquired goods by recognizing "the right of all States, territories and peoples under foreign occupation, alien and colonial domination (the case of the indigenous peoples) to restitution and full compensation for the exploitation and depletion of, and damages to, the natural resources".

21. General Assembly resolution 3281 of 12 December 1974, entitled "Charter of Economic Rights and Duties of States", meanwhile raises one of the inescapable issues of globalization, namely the elaboration of a code of conduct for transnational corporations.

22. The resolution provides that each State has the right:

(a) "To regulate and exercise authority over foreign investment within its national jurisdiction in accordance with its laws and regulations and in conformity with its national objectives and priorities. No State shall be compelled to grant preferential treatment to foreign investment";

(b) "To regulate and supervise the activities of transnational corporations within its national jurisdiction and take measures to ensure that such activities comply with its laws, rules and regulations and conform with its economic and social policies";

(c) "Transnational corporations shall not intervene in the internal affairs of a host State. Every State should, with full regard for its sovereign rights, cooperate with other States in the exercise of the right set forth in this subparagraph".

23. In this sense, nationalization or the expropriation of foreign investments is derived from instruments recognized by the international community and constitutes the live expression of the sovereignty of peoples.

For the effects of resolution 1803 referred to above, "nationalization, expropriation or requisitioning shall be based on grounds or reasons of public utility, security or the national interest which are recognized as overriding purely individual or private interests, both domestic and foreign".

24. "In such cases the owner shall be paid appropriate compensation, in accordance with the rules in force in the State taking such measures in the exercise of its sovereignty and in accordance with international law. In any case where the question of compensation gives rise to a controversy, the national jurisdiction of the State taking such measures shall be exhausted. However, upon agreement by sovereign States and other parties concerned, settlement of the dispute should be made through arbitration or international adjudication".

25. For its part, resolution 3171 (XXVIII) plainly establishes the principle of nationalization by States hosting foreign investments, as an expression of the sovereign will of peoples to safeguard their natural resources. That implies that "each State is entitled to determine the amount of possible compensation and the mode of payment". It may be noted that, in defiance of those principles and rules of conduct, the States that claim to come out in defence of sovereignty merely hand over the cultural assets and wealth belonging to aboriginal peoples to the voracity of transnational corporations.

26. As we have seen, a number of resolutions prohibit coercion in the expropriation of usurped heritage. In its resolution 2626 (XXV) of 24 October 1970, the General Assembly strongly condemns the acts of States (military Powers) which use force, armed aggression, economic coercion or any other illegal means of resolving disputes relating to the exercise of sovereign rights.

27. In the concrete case of an embargo or blockade, the coercive measures or rules used by States directly or indirectly to coerce other States or peoples with the aim of altering their internal structure or in the exercise of their sovereign rights over their natural resources, constitute a gross violation of the Charter and Declaration on the Relations of Friendship and Cooperation Between States.

28. We should also mention resolution 3201 (S VI) which appeals to the collective conscience by urging that no State may be subjected to any type of economic, political or any other coercion impairing the free and full exercise of this inalienable right. In legal terms, this means that any direct intervention, subversion or plundering of peoples, especially of the lands, territories or natural resources of indigenous peoples, are acts considered unlawful and therefore opposed to the binding rules of international law.

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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 14(b) of the provisional agenda

SPECIFIC GROUPS AND INDIVIDUALS: MINORITIES

Written statement*/ submitted by All For Reparations and Emancipation, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 January 2001]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental

During this 57th session of the Commission on Human Rights, Mr. Silis Muhammad will speak on behalf of so-called African-Americans for the ninth time. He has been bringing their collective prayer to the UN because the lingering effects of plantation slavery have left them in a deprived state. They are deprived of their original identity. They have experienced the forcible removal of culture, religion and 'mother tongue'. The annihilation of their 'mother tongue' is the extermination of their identity.

African-Americans in North, Central and South America and throughout the Diaspora all suffer from the loss of their identity. They did not come to the Americas willingly and they did not come as English speaking Christians with an Anglo-American culture. Neither did they come as Christians speaking Spanish or Portuguese or enjoying Spanish or Portuguese culture. Forcibly displaced from their common territory and scattered throughout the Americas Region and beyond, they have never questioned that they belong to each other as a group. Yet they have been denied the human rights that other groups enjoy: the right to speak their own language, practice their own religion and enjoy their own culture. Thus they are dispossessed of those human rights possessed by every minority and People and protected by the United Nations. They have not been in possession of their human rights for the past 400 years.

Although they are a People, and not a minority, African-Americans in the United States are placed within a minority status, as every scholar knows. The problems encountered in bringing the gravity of their position to light are extreme because the destruction of their identity has been hidden behind the U.S. Government's "melting pot" image. African-Americans mimic the identity of the majority. They are buried and hidden within the majority language, religion and culture, so very much so that United Nations in making its laws has left them out, it seems: it is not known immediately where they fit. To be left out of both the Declaration on the Rights of Minorities, and the International Covenant on Civil and Political Rights, is to not have political recognition of their human rights.

African-Americans support the notion that "Race" is a constituent element of the definition of minority. For more than 400 years they have been mindful, daily, of a consciousness of "otherness", with respect to racial differences. Unlike the Indigenous Peoples who were native to the territory, before colonization, and who formed many groups and spoke several languages, African-Americans were displaced from their common territory, and yet they invoke their similar characteristics in order to obtain their rights. Since the African-American "Racial" group is a group destroyed, it is axiomatic knowledge that they are a different racial group from the majority: they have neither racial dignity nor political bond.

Since collectively, they enjoy no political recognition, one might wonder how a complaint can be brought under international law. When they are able to argue about a violation of their human rights, and they should now be able in that they are racial members of the human family, this is their complaint: we are human beings, but to this date and time we are denied the human right of speaking our 'mother tongue' in violation

of Article 27 of the International Covenant on Civil and Political Rights, which the United States of America has ratified.

Today the U.S. Government makes itself responsible for the rights of minorities within its jurisdiction to speak their 'mother tongue' in community with other members of their group. African-Americans cannot speak theirs. While the U.S. may assert that African-Americans are deprived of the use of their mother tongue, and not denied its use, scholars will agree that the very act of taking their 'mother tongue' away was for the express purpose of denying them the use of it. In fact, the act is tantamount to a permanent ongoing denial. Since their 'mother tongue' is taken away, they are both deprived and denied the use of it. And in its place, the U.S. continually has forced its Anglo-Saxon 'mother tongue' upon them for the past 400 years. Absent their 'mother tongue', they become a non-People, living without a permanent identity.

The African-American experience is an example for the civilized world of a holocaust wherein identity is forcibly and perpetually exterminated. Throughout their history, the U.S. Government, for the benefit of the white majority, perpetuated the crime by systematically obstructing their attempts to identify and bring dignity to themselves. The international community well understands that human dignity is attached to identity. African-Americans in the U.S. have cried out in many ways over many years for the restoration of their dignity as a people, yet their cry has been manipulated by the acts of the U.S. Government.

In the 1950s and '60s African-Americans by the hundreds of thousands joined and built the Lost-Found Nation of Islam, which was the most successful autonomy model for slave descendants in the U.S. During the same time period, the U.S. Government demonstrated its opposition to their rising consciousness in many ways, including its counter-intelligence program. Ultimately the U.S. Government used its media, its laws and its military to promote integration. As the international community knows, the integration and civil rights movement caused African-Americans to believe that they might one day achieve equality. Now they are beginning to understand that as long as they are forced to assume the identity of the ruling culture, they are placed in an underling position from which there is no escape.

Today the integration movement is viewed by experts as having brought about the demise of an independent Black economy and the weakening of the Black family and Black community. With their cohesiveness thus disrupted, the U.S. Government is now firmly in the position of being able to manipulate the African-American choice of leaders at the most crucial time in their rise.

There has never been a more grave situation for African-Americans and the United States of America. From the grass-root to the intellectual elite, they are coming into awareness that the U.S. Government has never intended or acted to do justice toward the descendants of its slaves. They are realizing that the lingering effects of slavery are intentionally placed to keep them in a permanent underling position. They are rising with this knowledge, and moving toward a mass cry for reparation. Concurrently, the potential for U.S. Government manipulation of African-Americans through media

appointed leaders is at its highest point. If the African-American people see their upward movement being turned against them once again, violent racial confrontation is assured.

Once again, Mr. Silis Muhammad is delivering to the Commission on Human Rights a recommendation on behalf of African-Americans. He asks for United Nations expert and technical assistance in the establishment of an inclusive forum of African-American leaders. This forum would serve as the decision making and negotiating body for African-Americans in their dealings with the U.S. Government. The forum would also serve as a model for African-Americans in the Americas and throughout the Diaspora. It would provide a protected environment wherein the gravity of the current situation can be examined and the extent of damages can be determined. Within such a forum Black leaders from the grass-root, the community organizations, religious organizations, professional organizations as well as scholars, business leaders and politicians, can discuss and conclude on the means of reparation most beneficial to the restoration of African-Americans individually and as a People.

In conclusion, United Nations intervention is urgently called for in the restoration of the human rights and collective political identity of African-Americans. UN intervention is urgently called for as well, to protect and assist African-American leaders within a forum, as they seek to determine the damage they have sustained and the means of reparation needed in order to bring them back to life as a People.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement*/ submitted by Liberation, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

This statement concerns the violation of human rights in the Indonesian provinces of Aceh and West Papua.

Recent months have seen brutal crackdowns by the Indonesian security forces against the independence movements and civilian populations of both provinces. The peaceful expression of political opinion has led to extensive repression and loss of life. Independence leaders and political activists who advocate non-violence have become the first prisoners of conscience under the administration of President Abdurrahman Wahid. Human rights defenders and civil society leaders committed to a peaceful resolution of the crises are under constant fear for their safety. The urgent attention of the international community to the situation in each province is required to help avoid a further deterioration into a state of war.

Liberation is particularly concerned that the Indonesian armed forces have been operating beyond the control of the civilian authorities and in particular the President, who has favoured reconciliation and peaceful dialogue as a means of solving the problems in these provinces. The strategy of adopting the military solution to political problems is a serious threat to human rights and democracy throughout Indonesia and amounts to disturbing regression to the repressive policies of the New Order regime under former President Suharto.

The Indonesian Government has failed to adequately address the issue of impunity, which is a principal cause of continuing human rights violations. Tens of thousands of people have been killed in Aceh and West Papua since former President Suharto came to power without the perpetrators being held to account for their crimes. It is essential that this issue is now addressed properly and effectively.

Aceh

Liberation welcomes the initiative of the UN experts on human rights defenders, extrajudicial executions, torture, arbitrary detentions, and violence against women in writing to the Indonesian Government on 22 November 2000 to call for it to investigate allegations of human rights violations against human rights defenders, and extrajudicial executions, torture and arbitrary detention of the civilian population of Aceh and to ensure that fundamental rights are protected. The decision by Indonesia's National Commission on Human Rights (Komnas HAM) to set up an ad hoc commission to investigate the human rights situation in Aceh is a encouraging first step, but the Government must be pressed to respond to the UN experts' request in full.

The Humanitarian Pause agreed between the Indonesian Government and the Free Aceh Movement (GAM) in May 2000 has brought no respite from violence. On the contrary, according to the Aceh Human Rights Care Forum, the number of people killed in Aceh has more than doubled from 393 in 1999 to 841 for the period 1 January to 7 December 2000. Over 500 have been killed since the Humanitarian Pause came into operation in June. A police spokesman has said that there has been a significant rise in violence since the New Year with one body being found on average every 11 hours. In many cases, bodies are left lying on the streets with the clear intention of striking terror into the civilian population.

Liberation welcomes the agreement reached on 10 January 2001 by the Indonesian Government and GAM to establish a one-month moratorium on violence and to work to revise the security arrangements of the Humanitarian Pause to make them more effective. The Government must now abandon the military approach to solving the conflict and take steps to ensure that the new agreement leads to a substantial improvement in the situation on the ground.

Liberation is concerned that Muhammad Nazar, the prominent head of the Aceh Referendum Information Centre (SIRA), remains in detention charged under notorious 'hate-sowing articles' of the Penal Code with expressing hostility, hatred or contempt of the Government, a political crime widely used by the Suharto regime against its opponents. Mr. Nazar's offence was to raise the UN flag and a banner calling for Indonesia to get out of Aceh during Indonesian Independence Day celebrations in August 2000. He is committed to non-violence and is being targeted for his peaceful political activities. He should be released immediately and unconditionally.

The treatment of Mr. Nazar and other peaceful activists is in stark contrast to the failure of the authorities to act against those responsible for human rights atrocities. No charges have yet been brought in relation to the cold-blooded execution of three humanitarian workers employed by the Rehabilitation Action for Torture Victims (RATA) and a fourth person on 6 December. These killings were as horrific as the murder in September of three UNHCR workers in West Timor, which caused international outrage.

West Papua

West Papua is extremely volatile following celebrations on 1 December to mark the day in 1961 when the Dutch colonial administration re-named the territory West Papua, and allowed the adoption of the 'Morning Star' national flag amid promises of a process leading to a genuine act of self-determination. Thousands of extra troops have been sent to the province since August to crackdown on separatist aspirations, pro-Jakarta militias - similar to those which operated in East Timor - have been created, and there have been numerous killings associated with attempts by the security forces to prevent the raising of the Morning Star flag. The ban on flying the flag is a complete reversal of an earlier policy promoted by President Wahid, which allowed the flag to be flown thereby respecting the West Papuans' right to freedom of expression.

In the worst recent incident, at least 30 people, including many settlers, were killed after police shot dead two flag raisers in the town of Wamena in October. Around ten people were killed following the 1 December celebrations in the towns of Merauke and Fak Fak. A student was shot dead by police special forces and two other students were tortured and beaten to death in police custody on 7 December following the deaths of two police officers. Many others were arbitrarily arrested, beaten and tortured by the police at that time.

Five moderate independence leaders - Theys Eluay, Taha Al Hamid, Don Flassy, John Mambor, and Herman Awom - remain in arbitrary detention awaiting trial on charges of advocating separation for West Papua. Again, these are people who are committed to non-violence, they are being charged with political crimes and should be released immediately and unconditionally.

In view of the serious human rights situations in Aceh and West Papua, Liberation urges the Commission to call upon the Indonesian Government to:

* Respect the right of the peoples of Aceh and West Papua to freedom of expression - including their right to peacefully express their independence aspirations - and respond to their demands politically and not militarily.
* End all military operations in the two provinces and withdraw the thousands of extra troops and police sent there in recent months.
* Take steps to ensure the safety of all humanitarian workers, human rights defenders and staff of international agencies.
* Conduct credible investigations into recent and past killings and human rights violations and ensure that those responsible, including those in a position of command responsibility, are brought to justice in trials which meet international standards of fairness, independence and impartiality.
* Release the political prisoners named above and all other persons subject to arbitrary detention.
* Respond fully to the request made on 22 November by the UN human rights experts.
* Invite to Indonesia the UN experts on extrajudicial executions, torture and human rights defenders to carry out independent assessments of the human rights situations in Aceh and West Papua.
* Allow the ICRC to extend its mandate in Indonesia to cover observation of the military's compliance with common Article 3 of the Geneva Conventions, and inspection of places of detention.
* Ensure that the ad hoc Komnas HAM commission is able to carry out its investigation into the human rights situation in Aceh free from intimidation or any other form of obstruction and that effective protection is provided to those giving evidence to the commission.

Liberation further urges the Commission to:

* Call upon Komnas-HAM to visit West Papua and for Komnas Perempuan (National Commission on Women's Rights) and Komnas Perlindungan Anak (National Commission for Child Protection) to visit Aceh and West Papua to provide protection to victims of human rights violations and to investigate the human rights situations there.
* Request the High Commissioner for Human Rights to use her good offices to continually monitor and raise concern about the human rights situation in Aceh and West Papua with the Indonesian authorities and to assist with the resolution of the ongoing conflicts.
* Request the UN Secretary-General to consider sending a special representative or other special mechanism to Indonesia to help find peaceful solutions to the conflicts.
* Request the Working Group on Arbitrary Detentions and the special rapporteur on violence against women to follow up the implementation of the recommendations in their reports of their visits to Indonesia in 1998.
* Request the Representative of the Secretary General on Internally Displaced Persons to visit Aceh during his visit to Indonesia in 2001.